

REC'D. MACOMB CO. APR 02 2008 3:45 pm

STATE OF MICHIGAN JUDICIAL DISTRICT 16 <sup>TH</sup> JUDICIAL CIRCUIT COUNTY PROBATE	CERTIFICATION OF RECORDS ATTESTATION OF EXEMPLIFIED COPIES	CASE NO. 2006-000720-CH
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Court address  
40 North Main, Mount Clemens, MI 48043

Court telephone no.  
586-469-5351

MIKE GENSON MECHANICAL LLC vs. AMERICAN STEEL STAIR INC et al

Juvenile In the matter of  
Probate In the matter of

ATTESTATION OF CLERK/REGISTER

I am the clerk/register of the court and I attest that:

1. I am the custodian of the records of the 16<sup>th</sup> Circuit Court.
2. I have compared the annexed copies of:

JUDGMENT FOR FORECLOSURE OF PLAINTIFF'S CONSTRUCTION LIEN AND FOR PLAINTIFF'S ATTORNEY FEES AND COSTS

from the above case with the originals on file and of record in this court, and I find the copies to be true copies of the whole of such originals.

April 1, 2008

Date



Clerk/Register

Carmella Sabaugh  
Name(type or print)

By:

Deputy Clerk/Register



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Mark Sadecki, P.O. Box 310  
Davisburg, MI 48350

04/02/2008 03:54:41 P.M.  
MACOMB COUNTY, MI  
CARMELLA SABAUGH, REGISTER OF DEEDS

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

MIKE GENSON MECHANICAL, LLC,  
a Michigan limited liability company,

Plaintiff,

-vs-

AMERICAN STEEL STAIR, INC.,  
a Michigan corporation,  
EAST SIDE BUILDING MATERIALS CO.,  
a Michigan corporation,  
FLAGSTAR BANK, FSB,  
a Federally chartered bank,  
NORTHPOINT VILLAGE OF UTICA, LLC,  
a Michigan limited liability company,  
PRECISION PLUS DRYWALL, INC.  
a Michigan corporation,  
SAL-MAR NORTHPOINTE BLVD, LLC,  
a Michigan limited liability company,  
SALVATORE BIONDO,

Defendants,

-and-

NORTHPOINT VILLAGE OF UTICA, LLC,  
a Michigan limited liability company,  
SAL-MAR NORTHPOINTE BLVD, LLC,  
a Michigan limited liability company,

Counter-Plaintiffs,

-vs-

MIKE GENSON MECHANICAL, LLC,  
a Michigan limited liability company,

Counter-Defendant,

Case No.: 2006-000720-CH  
Judge: Hon. Matthew Switalski

**JUDGMENT FOR FORECLOSURE OF  
PLAINTIFF'S CONSTRUCTION LIEN  
AND FOR ATTORNEY FEES AND COSTS**

MAR 27 2008

FILED  
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CLERK  
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JUDGMENT FOR FORECLOSURE OF PLAINTIFF'S  
CONSTRUCTION LIEN AND FOR ATTORNEY FEES AND COSTS

At a session of said Court held in the City of  
Mt. Clemens, Macomb County, Michigan, on  
the 27th of March, 2008.

**MAR 27 2008**

PRESENT: HON. MATTHEW SWITALSKI.  
CIRCUIT COURT JUDGE

This matter having come before the Court on the motions of Plaintiff Mike Genson Mechanical, LLC ("Plaintiff") requesting a judgment of foreclosure on its construction lien, including such lien amounts for the award of Plaintiff's attorney fees and costs and all parties having had the opportunity to file briefs in support of their respective positions and having had an opportunity to argue the motion and/or oppose same in open court and the Court being otherwise fully advised in the premises;

NOW THEREFORE,

IT IS HEREBY ORDERED AND ADJUDGED that the Plaintiff's motion against the Defendant Owners is granted and the construction lien of Plaintiff that is being foreclosed in this

case, as previously ordered by the Court, shall take priority over the mortgage of Flagstar Bank, FSB and its successors and assigns, as recorded on July 14, 2005 with the Macomb County Register of Deeds at Liber 16909, Pages 324 - 345, pursuant to MCLA § 570.1119(3).

IT IS FURTHER ORDERED that for the reasons stated on the record, the Plaintiff's Motion to foreclose its lien claim and for attorney fees and costs is granted.

IT IS FURTHER ORDERED that Plaintiff is awarded the following:

\$417,591.00 awarded by the Court previous (plus statutory interest as of 2/4/2008),

\$ 595.00 in costs,

\$ 5,000.00 for expert witness fees for the Evidentiary Hearing

\$168,130.00 in attorney fees, pursuant to MCL 570.1118(2)

\$ 2,000.00 in attorney fees for Arthur Garton

\$593,316.00 Total.

IT IS FURTHER ORDERED that Plaintiff, Mike Genson Mechanical LLC is awarded a Judgment in its' favor in the above-amounts against Defendant Northpoint Village of Utica LLC and any other owners or persons claiming an interest in the subject property, which shall be included in the Plaintiff's lien amount and Judgment in this matter.

Said total shall be included in both Plaintiff's lien amount and the judgment in this matter, which shall be jointly and severally against Defendant Northpoint Village of Utica, LLC and any other owners of the subject property as of the date of filing of the Plaintiff's complaint.

IT IS FURTHER ORDERED that the above described premises may be sold under MCLA § 570.1121 as a single parcel at public auction in the County of Macomb to the highest bidder for cash, by or under the direction of the sheriff of the county or his duly authorized deputy at a time after the date hereof. Public notice of the sale shall be given and the sale shall be held in accordance with the statutes of the State of Michigan and the rules and the practices of this Court and a deed shall be executed to the purchasers conveying North Point Village of Utica,



LLC's and all other owners' interests in said property and the sale shall become final upon the entry of an order of confirmation by the Court. The proceeds from the sale shall be applied in the following order of priority:

- A. The costs and expenses of sale;
- B. The satisfaction of the judgment lien claim of Plaintiff; and
- C. The surplus, if any, to the Court for disposition.

IT IS FURTHER ORDERED that a report of sale and motion for confirmation shall be made as soon as practicable. The amount of any deficiency shall be included in the report.

IT IS FURTHER ORDERED that the sale of the premises shall be free of all other liens and encumbrances.

IT IS FURTHER ORDERED that Defendant's equity of redemption is set at 60 days. In the event that all amounts paid by the successful bidder(s) at the sale, plus all accrued interest charges, expenses and fees awarded herein, are not paid to the successful bidder by Defendant North Point Village of Utica, LLC and the real property owners within 60 days after the sale, then Defendant North Point Village of Utica, LLC and any and all other persons claiming any interests whatsoever through or under the Defendant real property owners, shall be forever barred and foreclosed from any and all equity of redemption and claim thereof in and to the premises described above. The successful bidder(s) shall own the property in Fee Simple, free of any liens and encumbrances other than accrued taxes and assessments. Only the properly perfected lien claimant Plaintiff Mike Genson Mechanical, LLC, shall be entitled to make a credit bid at the sale (equal to the amount owed pursuant to the judgment held by the Plaintiff) which bid may be combined for bidding purposes and be aggregated for redemption purposes.

IT IS FURTHER ORDERED that until such time as the subject property is sold or redeemed, the Plaintiff's construction lien claim on the premises shall continue. The real property is described as follows:

All that part of the southeast  $\frac{1}{4}$  of section 35, town 3 north, range 12 east, City of Utica, Macomb County, Michigan, described as: Beginning at a point which is distant south 89 degrees 40 minutes 00 seconds west 2322.45 feet along the south line of said section 35 and north 00 degrees 10 minutes 06 seconds east 946.51 feet from the southeast corner of said section 35; thence continuing north 00 degrees 10 minutes 06 seconds east 430.55 feet thence South 89 degrees 49 minutes 54 seconds east 395.50 feet; thence 398.33 feet along the westerly line of Northpointe Blvd. 100 feet wide, along a curve to the left, having a radius of 1200.00 feet a central angle of 19 degrees 01 minutes 07 seconds and a chord which bears south 09 degrees 40 minutes 40 seconds west 396.50 feet; and south 00 degrees 10 minutes 06 seconds west, 36.60 feet; thence south 89 degrees 40 minutes 00 seconds west 330.01 feet to the point of beginning.

Tax Id No.: 11-07-35-400-047

Commonly known as 45201 North Point Blvd, City of Utica, Michigan.

IT IS FURTHER ORDERED that in the event that Plaintiff, after the foreclosure sale and before expiration of the period of redemption, shall pay any taxes assessed against the real property; or premiums for any insurance policy covering the buildings and/or personal property located on the real property and/or any other fees whatsoever (collectively "fees") associated with the management and/or operation of the premises, that said taxes and fees applicable to the redemption period shall be added to the amount necessary to redeem the real property.

IT IS FURTHER ORDERED that in the event a deficiency occurs from the sale of the real property, the Court will enter such orders as are appropriate and in conformity with the Michigan Construction Lien Act, Court Rules and statutes of this state governing same.

This Order is a Final Order under MCR 7.202(6)(a)(i), however this Order does not resolve all remaining issues in the litigation.

This Judgment shall accrue interest at the statutory rate until paid in full.

IT IS SO ORDERED.

  
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HON. MATTHEW SWITALSKI  
CIRCUIT COURT JUDGE